

### **Remarks**

Claims 1-20 are pending.

#### **I. Final Rejection is Improper**

The Examiner made the present office action Final even though all claims are rejected over new art. Examiner has stated that applicant's prior amendment necessitated the rejection. Applicant's prior amendment expressly added an aperture to the support element in claim 1. The addition of the element made express what was implicit in the claims and did not change the scope of the search.

Applicant requests withdrawal of the finality of the rejection.

#### **II. Borghi Does Not Anticipate Claims 1-12**

The examiner has rejected claims 1-12 as anticipated by U.S. patent number 5,938,695 ("Borghi"). In contrast to the present device, Borghi lacks a longitudinal support rail upon which the supporting stent sections can move. The only movement in the Borghi device is radial expansion of the support sections from a collapsed state to an expanded state. The curved end sections in *Borghi* that were labeled by the Examiner in Fig. 4 are the portions of the spacer elements (5) that slide transversely within each tubular element (4). In another example, the support elements (110) of the present invention are formed from one continuous, undulating piece. In order to hold the support elements (110) together, a support rail (120) passes through apertures (117) of the support elements. In contrast, adjacent tubular elements (4) in *Borghi* are not held together by the spacer elements (5). The adjacent tubular elements are held together by a weld and the spacer elements (5) only allow variation in the distance separating the tubular elements (4) so that the stent is only capable of contraction or extension in the radial direction.

None of the elements of Borghi are capable of motion other than radial expansion. In contrast the present invention requires that " a plurality of said vessel support elements are moveable along and relative to said at least one support rail element." That is support element (110) slides along support rail (120). There is no movement in Borghi along a support rail.

Claim 2 is likewise not anticipated by Borghi because Borghi does not teach a support rail with a plurality of curved end sections. Borghi only discloses a linear support member and provides no incentive as to why a rail having curved ends would be desired.

Claim 3 is also not anticipated by Borghi. Claim 3 requires a plurality of elongated sections which pass through the support sections and also lacks the curved end sections.

Claim 4 is not anticipated because Borghi does not teach rails having curved ends. The structures the Examiner has indicated as being support rails are all linear.

Claim 5 is not anticipated because Borghi does not teach a rail passing through multiple axis of the stent.

Claim 6 is not anticipated because Borghi does not teach curved end sections which are secured to a vessel support element. Again, the support elements in Borghi are linear or angular in all embodiments.

Claim 7 is not anticipated because Borghi does not teach a plurality of support rails connected by curved terminal sections. The terminal sections of Borghi are linear.

Claim 8 is not anticipated because Borghi does not teach a second end of an elongated support element integral with a curved section. Borghi does not have any non linear components.

Claim 9 is not anticipated because Borghi does not teach a support rail free of terminal connections end. All embodiments of Borghi have a fixed terminus.

Claim 10 is not anticipated because Borghi does not teach terminating a rail support between two vessel support elements. The support element of Borghi is only terminated at the ends of the device.

Claims 11 and 12 are not anticipated because Maas does not disclose the required elements of claim 1 from which 11 and 12 depend.

## **II. Claims 13-20 are not obvious**

### **A. Claims 13-14 are not obvious over Borghi in view of Das.**

Claims 13-14 presently stand rejected as obvious under 35 U.S.C. § 103 over Borghi in view of United States Patent Number 5,554,181 to Das.

Applicant respectfully disagrees on the basis that, as shown above, Borghi does not disclose the underlying elements of claim 1 from which claim 13 and 14 depend. Das does not provide the missing elements, namely Das fails to teach the use of rail support sections. Das further fails to teach that the coated vessel support elements can move with respect to the rail element. Borghi and Das together do not teach a coated stent in which radial elements are movable on a longitudinal axis defined by a support rail

### **B. Claims 12-20 are not obvious over Borghi in view of Steinke**

Claims 12-20 presently stand rejected as obvious under 35 U.S.C. § 103 over Borghi in view of United States Patent Number 6,224,626 to Steinke.

As noted previously, the stent of Borghi does not function the same as the stent in the present invention. The support elements of Borghi are simply not capable of longitudinal movement along a support rail. As noted, Borghi does not teach coatings. Steinke does not provide the missing elements of Borghi.

With respect to claims 13-20, neither Borghi nor Steinke disclose a stent in which a plurality of said vessel support elements are moveable along and relative to said at least one support rail element.

With respect to claim 15, neither Borghi nor Steinke disclose either a support rail or a support rail comprising an active agent.

With respect to claim 16, neither Borghi nor Steinke disclose a support rail, nor do they disclose coating a vessel support element and the support rail with different active agents.

With respect to claim 17 neither Borghi nor Steinke disclose a support rail, nor do they disclose coating each of a plurality of support rails with different active agents.

With respect to claim 18, neither Borghi nor Steinke disclose a support rail, nor do they disclose a support rail made from a polymer.

With respect to claim 19, neither Borghi nor Steinke disclose a support rail, nor do they disclose coating a vessel support element and the support rail with different active agents.

With respect to claim 20 neither Borghi nor Steinke disclose a support rail, nor do they disclose coating each of a plurality of support rails with different active agents.

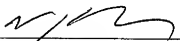
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Applicants submit that these amendments and remarks, when entered, place claims 1-20 in condition for allowance and respectfully request that such action be taken by the Examiner at this time.

Should the Examiner conclude the claims are not in condition for allowance, Applicant requests a phone conference as expeditiously as possible. Examiner's evaluation of this application and a telephone call to the undersigned at (954) 315-5044 is respectfully solicited.

Respectfully submitted,

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